JUDICIAL SETTLEMENT OF CONTROVERSIES BETWEEN STATES OF THE AMERICAN UNION. Edited by James Brown Scott. Carnegie Endowment for International Peace. New York: Oxford University Press. 1918.

This collection of the decisions of the United States Supreme Court rendered in controversies between the states is published in the faith that "layman as well as practitioner" will be convinced "that what forty-eight states of the American Union can do, a like number of states forming the society of nations can also do." If Mr. Scott means that states forming the society of nations may conceivably form a federal union in the courts whereof their controversies may be judicially determined, the parallel is undoubtedly apt, but so improbable of practical application that its exposition borders on the realm of imaginative literature. If the suggestion is that the success of the Supreme Court in deciding interstate cases is a compelling argument for the feasibility of any such international tribunal as has been seriously projected or seriously considered, the logical necessity is not so clearly seen. A description of the Supreme Court as "in its origin and in fact an international tribunal created by the states" certainly fails somewhat of completeness. Even granting that the constitution is a pact between the states, an assumption in which Mr. Scott seems to dissent from the position taken by Marshall and reaffirmed by Story,[1] it does not follow that the Supreme Court was created as an international court, or that it now is primarily an international court. The records of the Convention would seem to show that the jurisdiction over controversies between the states was one of the last provisions added to Article III.[2] And the most casual glimpse of the Supreme Court Reporters would suggest that the primary function of the court is not the settlement of difficulties between the states. The court is, first and foremost, the highest organ of the judicial power under the federal government. It was created to hear cases arising under the laws and constitution of the United States, and cases which could not be equitably determined in the state courts on account of the character of the parties. And under this general grant of jurisdiction it properly hears controversies between the states.

The seeming misconception upon which the present collection of cases rests is worth noting, because the fundamental differences between the Supreme Court and a possible international tribunal are involved in the distinction. It is precisely because the Supreme Court is a federal court and not an international court that it has been successful in the decision of cases between the states. For one thing, the Supreme Court is an integral part of the judicial system of each of the states, and submission to its awards and to its interpretation of the law is the natural order in the courts of the states. Again, the officers, executive and judicial, of the states are citizens of the United States, and as such amenable to its judicial processes.[3] And finally, in the all-important matter of sanction, the fact that the court sits as a federal court is vital. Whatever be the proper resolution of the much-discussed question whether or not the Supreme Court may enforce obedience to its awards on the part of the states,[4] there is a sanction behind its decisions so compelling that no state ever has permanently disobeyed its commands, or probably ever will. For the state

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[1] McCulloch *v.* Maryland, 4 Wheat. 316; Martin *v.* Hunter's Lessees, 1 Wheat. 304.

[2] The grant to the Supreme Court of jurisdiction over controversies between the states does not appear in the New Jersey plan nor in the Virginia plan; it is realized only in part in the report of the Committee on Detail rendered August 6; it is incorporated in the constitution in its present form in the report of the Committee on Style of September 12. FARRAND, 2 RECORDS OF THE FEDERAL CONVENTION, 132, 133, 186, 600.

[3] *Ex parte* Virginia, 100 U. S. 339; *Ex parte* Siebold, 100 U. S. 371.

[4] 31 HARV. L. REV. 210, 1158.

which should defy the Supreme Court would strike, not at an artificial bond between independent states, but at the essential structure of its own constitution and polity. Briefly, then, the interstate decisions of the Supreme Court of the United States are conclusive of one thing only in this connection, — that a federal union is practicable.

But though these decisions do not go so far toward the international solution as Mr. Scott would press them, they do at least offer much and valuable material for the student of world tribunals. Even here, however, a preliminary distinction must be made. So far interstate decisions have been limited to historically justiciable questions, the most common being questions of boundary, contract, and nuisance. Indeed the court has frequently intimated that it has no jurisdiction unless the question is justiciable in the sense suggested.[5] It is clear, then, that no light can be had here on the difficult international problem of the solution of controversies in which judgment would entail the enforcement of a political act by the sovereign of one of the states. But within the limits thus marked out these cases are clearly of great importance, not only in the fields of constitutional law but also in the new infinities of international experimentation. And the collection now presented should prove convenient for those who have occasion to consult the record of cases between the states. The first volume, with its collection of standard cases on the nature of the jurisdiction of the federal courts, the origin of the Union, the state of the law before the Eleventh Amendment, etc., seems hardly to compensate for the tremendous increase in bulk necessitated by the inclusion. But the second volume would be a convenient addition to the library of any constitutional or international lawyer.

ARCHIBALD MACLEISH.

THE STORY OF MY LIFE. By the Right Hon. Sir Edward Clarke, K. C. New York: E. P. Dutton and Company. 1919. pp. 439.

Lawyer-like, Mr. Clarke has used the words of his title in their most exact sense. His autobiography is not a rumination, but a chronicle. To the general reader the book, save for an occasional passage which may change the angle of a sidelight upon a familiar incident, will, for the most part, be uninteresting; the student of politics and government will find more meat in it; to the lawyer it offers a sketch of the setting in which the English barrister moves. But whoever reads the book cannot fail to be impressed by the comprehensiveness and vigor of the activities of which it tells.

A poor boy who slept behind the counter of his father's jewelry shop, a clerk in the East India House, a junior in the London Sessions, counsel for Captain O'Shea and Dr. Jameson, M.P., K.C., Solicitor-General and Privy Councillor — certainly a man whose life has covered as much ground as this is entitled to the "full contentment" in which he writes his closing chapter. Mr. Clarke's remarkable energy has taken him into the varied fields of law, journalism, literature, politics, and even shorthand; and in two of these fields he has attained an eminence which enables him to give accounts of famous trials that formal reporters could never offer, and to show prime ministers without their greasepaint. It is in his adventures as a disciple of Disraeli that the story comes nearest dramatic significance. When Mr. Clarke stands against his party in favoring compromise with the United States on the Venezuela question, and when he is forced out of his seat in Parliament because of his manly opposition to the Boer War, the respect which must be accorded to merited achievement turns into warm admiration and sympathy, and his re-election — this time to the long-desired position of a representative of the city of London — is felt as a climax to a tale as well as to a career.

[5] South Dakota *v.* North Carolina, 192 U. S. 286.